

*United States Court of Appeals  
for the Second Circuit*



**APPELLANT'S  
APPENDIX**



74-2084

UNITED STATES COURT OF APPEALS  
FOR THE SECOND CIRCUIT

Docket No. 74-2084

-----  
UNITED STATES OF AMERICA, ex rel. JULIO JUVENTINO LUJAN,  
on the petition of FRANK A. LOPEZ,

Petitioner-Appellant,

-against-

WARDEN LOUIS GENGLER, Superintendent Federal Detention  
Headquarters, New York City, HON. DAVID G. TRAGER, United  
States Attorney for the Eastern District of New York,  
and any other person having custody and control of the  
relator,

Respondents-Appellees.

-----  
APPELLANT'S APPENDIX

FRANK A. LOPEZ  
Attorney for Petitioner-Appellant  
JULIO JUVENTINO LUJAN  
31 Smith Street  
Brooklyn, New York 11201  
Telephone (212) 237-9500.

**PAGINATION AS IN ORIGINAL COPY**

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730R 677

13A 310  
3CK 676  
3CK 746

2-58 958

MISHLER, S.

TITLE OF CASE	MISLLED RECEIVED U.S. DISTRICT COURT NEW YORK
THE UNITED STATES	<i>For U. S.</i>
vs.	
JEAN PAUL ANGELETTI	
FRANCISCO TOSCANINO	
JULIO JUVENTINO LUJAN	
JOSE MARACHLIAN BEDIRIAN	
ROCCO MITRO	<i>For Defendant: Lujan</i>
JOSE VILARDI	Frank Lopez, 31 Smith St.
GUGLIELMO CASALINI	B'klyn, N.Y. 237-9500
RENZO ROGAI and	
CARLO ZIPPO	

Did conspire to import heroin, etc.

ABSTRACT OF COSTS	AMOUNT	CASH RECEIVED AND DISBURSED			
		DATE	NAME	RECEIVED	DISBURSED
Fine,		6-7-74	Notice of appeal(GOVT)	(LUJAN)	
Clerk,		7-1-74	Notice of appeal(Lujan)		
Marshal,					
Attorney,					
Commissioner's Court,					
Witnesses,					

DATE	PROCEEDINGS
7-19-73	Before MISHLER, CH J - Indictment filed - Bench Warrants Ordered and issued for all defts with the exception of deft No. 2.
7-24-73	By MISHLER, CH J - Indictment ordered sealed by the Court.
9-24-73	Before MISHLER, CH J - CDse called - deft MITRO present without counsel - Indictment unsealed by the Court. Interpreter Libya Clancy present - deft Mitro arraigned and the court enters a plea of not guilty on behalf of the deft - court to appoint counsel for deft Mitro. Bail set at \$150,000 surety company bond.
11-2-73	Before MISHLER, CH J - Case called - deft LUJANx&XENNERX present - counsel not present - Interpreter Libya Clancy present - deft arraigned and after being advised of his rights by the court the Court entered a plea of not guilty on behalf of the deft - court to appoint counsel bail set at \$1,500,000.00

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DATE	PROCEEDINGS	CLERK'S FEES	
		PLAINTIFF	DEFENDANT
11-9-73	By MISHLER, CH.J. - Order appointing counsel filed (LUJAN)		
12/24/73	Notice of Readiness for Trial filed.		
1-7-74	Notice of motion for inspection of grand jury minutes and/or dismissal of the indictment. filed ret. 1-18-74 (LUJAN)		
1-18-74	Before MISHLER, CH.J. - Case called- Motion for inspection of grand jury minutes withdrawn- Motion to dismiss the indictment is denied- Motion argued by Mr. Lopez for deft Lujan (LUJAN)		
6-7-74	Before MISHLER, CH J - case called - motion to dismiss the Indictment argued - Motion granted. Court dismissed the Indictment as to deft LUSON ., as indicated on the record. Bail conditions continued pending appeal by the Govt.		
6-7-74	Motion filed for Inspection of Grand Jury Minutes, and or dismissal of the Indictment, etc. (received from Chambers)ret. June 7, 1974.  (LUJAN)		
6-7-74	By Mishler, Ch J - Order of dismissal filed (LUJAN)		
6-7-74	<sup>Govt's</sup> Notice of appeal filed (LUJAN)		
6-7-74	Docket entries and duplicate of notice of appeal sent to court of appeals (LUJAN)		
6-10-74	Stenographers Transcript dated 6-7-74 filed		
6-17-74	Stipulation filed by and between the attorneys for the parties hereto that the Notice of Appeal, attached hereto as Ex.A, be and hereby is withdrawn.		
6-17-74	Notice of Motion filed for re-argument, ret. June 21, 1974, /for a further order vacating the order herein dismissing the Indictment, etc. and affidavit of EDWARD R. KORMAN filed.	&	
6-21-74	Before MISHLER, CH.J.- Case called- Motion for reargument is - The order dismissing the indictment is vacated (LUJAN) - The habeas corpus petition based on grounds previously argued on 6-7-74 is dismissed		
7-1-74	Notice of appeal filed from the dismissal of the habeas corpus petition(I)		
7-1-74	Docket entries and duplicate of notice of appeal mailed to c of a (LUJAN)		
7-8-74	Stenographers Transcript dated 6-21-74 filed		

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA,

Plaintiffs-Appellee,  
-against-

JULIO JUVENTINO LUJAN,

Docket No.  
73 Cr. 677

NOTICE OF APPEAL

Defendant-Appellant.

S I R S :

PLEASE TAKE NOTICE, that the Defendant-Appellant JULIO JUVENTINO LUJAN, hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment/Order of the District Court for the Eastern District of New York (HON. JACOB MISHLER, Chief Judge) entered on June 21st, 1974, dismissing the petition for a Writ of Habeas Corpus pursuant to the provisions of 28 U.S.C. § 2241, etc.

DATED: Brooklyn, New York, June 28th, 1974.

Yours, etc.,

FRANK A. LOPEZ  
Attorney for Defendant-Appellant  
JULIO JUVENTINO LUJAN  
81 Smith Street  
Brooklyn, New York 11201

TO:

CLERK,  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

HON. DAVID G. TRAGER  
United States Attorney  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

47a

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----x  
UNITED STATES OF AMERICA, ex rel.  
JULIO JUVENTINO LUJAN on the petition  
of FRANK A. LOPEZ.

Petitioner,

-against-

Docket No.  
73 Cr. 677

WARDEN LOUIS GLNGLER, Superintendent  
Federal Detention Headquarters, New York  
City, I.C.N. DAVID G. TRAGER, United  
States Attorney for the Eastern District of  
New York, and any other person having  
custody and control of the relator.

Respondents.

-----x  
MOTION AND PETITION FOR A WRIT OF  
HABEAS CORPUS IN BEHALF OF THE  
RELATOR JULIO JUVENTINO LUJAN,  
PURSUANT TO 28 U.S.C. § 2241.

SIRS:

PLEASE TAKE NOTICE, that upon the annexed petition of  
FRANK A. LOPEZ, verified the 19th day of June, 1974, and upon the indictment  
and all other proceedings had herein, the undersigned in behalf of the  
petitioner herein, will move this Court before the HONORABLE JACOB  
MISHLER, Chief Judge of this Court, at the Courthouse located at 225 Cadman  
Plaza East, Brooklyn, New York, on the 26th day of June, 1974, at 9:30 o'-  
clock in the forenoon of that day or as soon thereafter as counsel can be  
heard for a WRIT OF HABEAS CORPUS pursuant to the provisions of 28 U.S.C.  
§ 2241, etc., discharging the petitioner herein from custody and directing  
his return by federal authorities to Argentina, on the grounds that his pres-  
ence in the United States of America was secured by fraud, duplicitly, and  
other unlawful means and in violation of the international treaties and obligations

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of the United States in violation of Article VI, Clause 2, of the United States Constitution, as decided by United States vs. Toscanino, United States Court of Appeals, Second Circuit, Docket No. 73-2732, decided May 15th, 1974, together with such other and further relief as may be just and proper in the circumstances.

DATED: Brooklyn, New York, June 19th, 1974.

Yours, etc.,

FRANK A. LOPEZ  
Attorney for Defendant  
Office & P.C. Address  
31 Smith Street  
Brooklyn, New York 11201  
Telephone (212) 237-7500

TC:

Assistant United States Attorney  
RAYMOND J. DEARIE, Chief, Appeals Bureau  
United States Courthouse  
225 Cadman Plaza East  
Brooklyn, New York 11201

HON. JACOB MISHLER  
Chief Judge  
United States District Court  
225 Cadman Plaza East  
Brooklyn, New York 11201

CLERK, CRIMINAL TERM  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

6a

-----x  
UNITED STATES OF AMERICA, ex rel.  
JULIO JUVENTINO LUJAN, etc.,

Petitioner.

Docket No. 73 Cr.  
677

-against-

WARDEN LUIS GENGLER, Superintendent  
Federal Detention Headquarters, New York  
City, HCN, DAVID G. TRAGER, United  
States Attorney for the Eastern District of  
New York, and any other person having  
custody and control of the relator.

PETITION

Respondents.

-----x  
TO THE HONORABLE JACOB MISCHLER, CHIEF JUDGE,  
UNITED STATES DISTRICT COURT, EASTERN DISTRICT  
OF NEW YORK:

Comes the petitioner JULIO JUVENTINO LUJAN, by his attorney FRANK A. LOPEZ, Esq., and states and alleges:

1. That FRANK A. LOPEZ, is an attorney and counsellor at law licensed to practice in the State of New York and is duly admitted to practice before this Court. That pursuant to an Order dated November 8th, 1973, entered by the HONORABLE JACOB MISCHLER, Chief Judge of the United States District Court for the Eastern District of New York, he has been assigned to represent the relator and defendant JULIO JUVENTINO LUJAN, who is one of nine defendants accused by Indictment out of this District carrying Docket No. 73 Cr. 677.

2. That the relator/defendant LUJAN was charged with a Conspiracy to violate the Narcotic Laws of the United States between a period embracing March 1st, 1970, and January 31st, 1972. That more specifically LUJAN is charged in that prior to May 1st, 1971, he violated 21 U.S.C. § 174, and on/and after May 1st, 1971, LUJAN violated 21 U.S.C. § 174, and

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on and after May 1st, 1971, LUJAN violated 21 U.S.C. §§ 812, 841, (A) (1), 841 (B) (1) (a), 960 (A) (1) and 960 (B) (1).

3. The Government will attempt to prove that it was part of said narcotic conspiracy that prior to May 1st, 1971, the named defendants and unindicted and unnamed co-conspirators fraudulently and knowingly imported and brought large quantities of heroin into the United States contrary to law. The conspiracy that the Government will attempt to prove transpired between March 1st, 1970, and January 31st, 1972, and had for its continuing objective the transportation, concealment and selling of large quantities of heroin in the United States. It is the theory of the Government's case that these quantities of heroin flowed into the United States through several Southern American countries, France, and finally into this country. In the overt acts alleged by the Government, the prosecution claims that on November 28th, 1971, co-conspirator CARAMIAN, an unnamed defendant and probably a Government informer, met with relator/defendant LUJAN and co-defendant ANGELETTI at the Hotel Crillon in Lima, Peru. While the overt acts make no further mention of LUJAN other specifications cover geographic areas involving Uruguay, Peru, Mexico and France and refer to amounts of heroin of approximately one (100) kilograms.

4. The instant application is for the issuance of a WRIT OF HABEAS CORPUS pursuant to 28 U.S.C. § 2241, etc., in behalf of LUJAN in the interests of justice, international law, the international treaties and obligations of the United States, Article VI, Clause 2, of the United States Constitution, and the rationale of United States v. Toscanino, F2d \_\_\_\_\_ (2nd Cir. dec. May 15th, 1974), Docket No. 73-2732. This application for the Writ is grounded on the kidnapping, treachery, deceit, subter-

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fuge and conspiracy of agents of the United States operating in foreign countries with the ultra vires complicity of local police in Bolivia and elsewhere to bring about the forcible abduction of LUJAN from his native Argentina to the United States for the sole purpose of his arrest at Kennedy Airport and subjecting him to the jurisdiction of this Court under the instant indictment.

5. This application specifically challenges the detention of LUJAN by the Attorney General of the United States and his authorized representatives and the jurisdiction of this Court to try LUJAN under the aforementioned indictment because of the special and peculiar circumstances of this case which brought LUJAN into this jurisdiction by the illegal acts of American/foreign operatives and the lawless complicity of Local Bolivian Police briber by American officials. In this respect we draw attention to United States vs. Francisco Toscanino, United States Court of Appeals, Second Circuit, Docket No. 73- 2732. The Court is aware of the factual background of the decision and therefore it is unnecessary to further elaborate upon it.

6. The facts in the instant case, starting in themselves, are as follows:

(a) On or about October 26th, 1973, the defendant Lujan flew an airplane on a chartered flight from Argentina into Bolivia. This was a legal flight with flight clearance given by Argentine and Bolivian authorities. The flight was arranged by American Agents who lured LUJAN to fly from Argentina into Bolivia under the pretext of flying a passenger who had business with American interests in Bolivian mines.

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On arrival in Bolivia, Bolivian police placed LUJAN in custody without formal charge of any kind. He was not permitted to communicate with the Argentine Embassy, an attorney, or any member of his family. The Bolivian police compromised did not have lawful mandate from their own law enforcement authorities to effect the detention of LUJAN. They were in effect bribed by American agents.

(b) On or about October 27th, 1973, LUJAN was taken by the Bolivian armed police from Santa Cruz, Bolivia to LaPaz, Bolivia without his consent and under the threat of force and again held incommunicado. In charge of this operation was Major Guido Lopez of the Bolivian Police, who at times during the Lujan detention skirted his own police lesa inquiry by made reference Lujan.

(c) On or about November 1st, 1973, LUJAN was then taken by Bolivian Police (Lieutenant Terrazas and American C. I. A. agents or operatives) in Bolivia to the airport where he was forcibly abducted and placed on an airplane and taken to New York.

(d) On or about November 2nd, 1973, LUJAN arrived at Kennedy Airport in Queens, New York, within the Eastern District of New York and was thereafter formally arrested and charged for the first time by additional Federal Agents who were waiting for him.

(e) It is also clear on information and belief that United States Law Enforcement Officers acting covertly with the Bolivian Police were able to abduct LUJAN, a national of a third country, Argentina, without any lawful intervention, to wit, formal charge by the Bolivian Police, formal charge and extradition by the United States Authorities, and the arrival of LUJAN

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In New York City was a gross act of international banditry in which the United States participated with the bribed police of a second country acting ultra vires to abduct the foreign national of a third country in violation of it's treaties with Argentina and Bolivia, and the the agreements setforth by the organization of American States (OAS). Such a blatant act of piracy should not be sanctioned by this Court. As a matter of fact, the sanctioning of such an act places in liability citizens of the United States who are in Argentina and elsewhere, for if the rationale the United States Government applies to LUJAN is valid then likewise lawfull are possible Argentina Indictments or formal accusations in their country against United States citizens forcibly abducted to their jurisdiction on some pretext or hoax. The actions of the United States may well cause a chain-reaction of lawlessness and a repudiation of extradition treaties between the United States, Bolivia, Argentina and other countries, and an abridgement of American responsibilities under the O.A.S. and the U.N. charter.

7. The instant case requires judicial scrutiny and the Court should exercise it's supervisory powers over the actions of United States Law Enforcement officials abroad and mandates that Lujan be returned from where he came and released from his present custody.

8. No previous application has been made for this specific relief.

WHEREFORE, your petitioner prays that a WRIT OF HABEAS CCRPUS issue, directed to the respondent, requiring the respondent to

produce the said JULIO JUVENTINO LUJAN, before this Court as may be directed.

DATED: The 19th day of June, 1974.

Petitioner  
JULIE JUVENTINO LULAN  
BY: FRANK A. LCFZ  
Attorney for Petitioner  
31 Smith Street  
Brooklyn, New York 11201  
Telephone (212) 257-4300

STATE OF NEW YORK )  
SS.:  
COUNTY OF KINGS )

FRANK A. LOPEZ, being duly sworn, deposes and says that he is the petitioner in the within proceeding; that he has read the foregoing petition and knows the contents thereof; that the same is true to his own knowledge, except as to the matters therein stated to be alleged on information and belief, and that as to those matter he believes it to be true.

FRANK A. LEITCH, In b. half of  
JULIE JUVENTINE LUIAN

Sworn to before me, this 10th  
day of June, 1974.

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C  
UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

FILED  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ JUL 19 1973 ★  
TIME A.M. \_\_\_\_\_  
- P.M. \_\_\_\_\_

----- X  
UNITED STATES OF AMERICA

- against -

JEAN PAUL ANGELETTI  
FRANCISCO TOSCANINO  
JULIO JUVENTINO LUJAN.  
JOSE MARACHLIAN BEDIRIAN  
ROCCO MIRTO  
JOSE VILARDI  
GUGLIELMO CASALINI  
RENZO ROGAI and  
CARLO ZIPPO,

Cr. No. \_\_\_\_\_  
(21 U. S. C., §173,  
21 U. S. C., §174,  
21 U. S. C., §846,  
21 U. S. C., §963)

Defendants.

73 CR 677

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THE GRAND JURY CHARGES:

On or about and between the 1st day of March 1970 and the 31st day of January 1972, both dates being approximate and inclusive, within the Eastern District of New York and elsewhere, JEAN PAUL ANGELETTI, FRANCISCO TOSCANINO, JULIO JUVENTINO LUJAN, JOSE MARACHLIAN BEDIRIAN, ROCCO MIRTO, JOSE VILARDI, GUGLIELMO CASALINI, RENZO ROGAI and CARLO ZIPPO, the defendants, together with Michel Nicoli, Hovsep Caramian Chambian and Lucien Sarti, named herein as co-conspirators but not as defendants, and others known and unknown to the Grand Jury, wilfully, knowingly and unlawfully did combine, conspire, confederate and agree together and with each other to violate prior to May 1, 1971, Sections 173 and 174 of Title 21, United States Code, and on and after May 1, 1971 to violate Sections 812, 841(a)(1), 841(b)(1)(A), 952(a), 960(a)(1) and 960(b)(1) of Title 21, United States Code.

1. It was part of said conspiracy that prior to May 1, 1971, the defendants and co-conspirators, to include

would import and bring into the United States a large quantity of heroin, a narcotic drug, contrary to law.

2. It was further a part of said conspiracy that prior to May 1, 1971, the defendants and co-conspirators wilfully, knowingly and unlawfully would receive, conceal, buy, sell and facilitate the transportation, concealment and sale of a large quantity of heroin, a narcotic drug, after the narcotic drug had been imported and brought into the United States, knowing the same to have been imported and brought into the United States contrary to law.

3. It was further a part of said conspiracy that on and after May 1, 1971, the defendants and co-conspirators knowingly and intentionally would import a large quantity of heroin, a Schedule I narcotic drug controlled substance, into the United States from places outside thereof.

4. It was further a part of said conspiracy that on and after May 1, 1971, the defendants and co-conspirators knowingly and intentionally would distribute and possess with intent to distribute a large quantity of heroin, a Schedule I narcotic drug controlled substance.

5. It was further a part of said conspiracy that the defendants and co-conspirators would conceal the existence of the conspiracy and would take steps designed to prevent disclosure of their activities.

In furtherance of the conspiracy and to effect the objects thereof, the following overt acts, among others, were committed within the Eastern District of New York and elsewhere.

OVERT ACTS

1. In or about March 1970, defendant CASALINI travelled

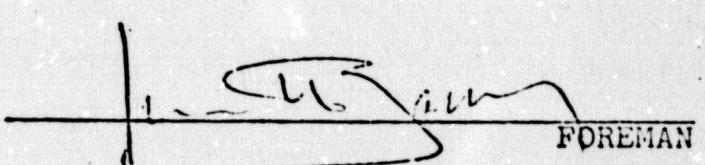
14a

by airplane from Rio de Janeiro, Brazil to John F. Kennedy International Airport in Queens, New York.

2. In or about October 1971, co-conspirators Caramian and Sarti met with defendant TOSCANINO in Montevidec, Uruguay.
3. On or about the 26th day of November 1971, defendants MARACHLIAN, MITRO and VILARDI travelled by airplane from Paris, France to Jorge Chavez Airport in Lima, Peru.
4. On or about the 28th day of November 1971, co-conspirator Caramian met with defendants LUJAN and ANGELETTI at the Hotel Crillon in Lima, Peru.
5. In or about December 1971, defendant ROGAI drove an automobile containing approximately one hundred (100) kilograms of heroin to the vicinity of the Maria Isabel Hotel in Mexico City, Mexico.
6. In or about December 1971, co-conspirator Nicoli delivered an automobile containing approximately one hundred (100) kilograms of heroin to the defendant ZIPPO in the vicinity of the Maria Isabel Hotel in Mexico City, Mexico.

(Title 21, United States Code, Sections 173, 174, 846 and 963.)

A TRUE BILL.

  
FOREMAN

Robert A. Morse by TPP  
ROBERT A. MORSE  
United States Attorney  
Eastern District of New York

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA, ex rel.  
JULIO JUVENTINO LUJAN on the petition  
of FRANK A. LOPEZ,

M'FILMED

Petitioner,

-against-

JUDGMENT

WARDEN LOUIS GENGLER, Superintendent  
Federal Detention Headquarters, New York  
City, HON. DAVID G. TRAGER, United  
States Attorney for the Eastern District of  
New York, and any other person having  
custody and control of the relator,

FILED  
IN CLERK'S OFFICE  
EASTERN DISTRICT OF NEW YORK

JUN 24 1974



Respondents.

TIME AM  
P.M.

-----x  
A Order of Honorable Jacob Mishler,  
United States District Judge, having been filed on  
June 21, 1974, finding for the respondent and against  
the petitioner, it is

ORDERED and ADJUDGED that the petition for  
a writ of habeas corpus is dismissed.

Dated: Brooklyn, New York  
June 24, 1974

*Lewis Argel*  
CLERK

BY: *Thomas Blawie*

CHIEF DEPUTY CLERK

